

### **REMARKS/ARGUMENTS**

The above amendments and following remarks are made in response to the final Office action of July 3, 2008. The Examiner's reconsideration is respectfully requested in view of the above amendment and the following remarks. No new matter has been added, amendments have been made for purposes of clarifying the claimed invention.

Claims 1, 2, 4, 5, 7 and 9 have been amended. Support for the amendments to claim 1, 2, 4, 5, 7 and 9 can be found throughout the specification and figures 3-5 as originally filed. No claims have been cancelled. Claims 1-9 are pending in the present application upon entry of the present response.

Applicants respectfully submit that in light of the above amendments and following remarks, the claims as presented are in condition for allowance.

#### **Claim Rejections Under 35 U.S.C. § 102(b)**

In order to anticipate a claim under 35 U.S.C. §102, a single source must contain all of the elements of the claim. *Lewmar Marine v. Barient, Inc.*, 827 F.2d 744, 747, 3 U.S.P.Q.2d 1766, 1768 (Fed. Cir. 1987), *cert denied*, 484 U.S. 1007 (1988). Moreover, the single source must disclose all of the claimed elements "arranged as in the claim." *Structural Rubber Prods. Co. v. Park Rubber Co.*, 749 F.2d 707, 716, 223 U.S.P.Q. 1264, 1274 (Fed. Cir. 1984). Missing elements may not be supplied by the knowledge of one skilled in the art or the disclosure of another reference. *Titanium Metals Corp. v. Banner*, 778 F.2d 775, 780, 227 U.S.P.Q. 773, 777 (Fed. Cir. 1985).

#### **Claims 1, 3-5 and 8**

Claims 1, 3-5 and 8 stand rejected under 35 U.S.C. § 102(e) as being allegedly anticipated by Bohn (U.S. Patent No. 6,618,038, hereinafter "Bohn"). The Examiner states that Bohn discloses all of the elements of the abovementioned claims, primarily in column 1, lines 15-21, column 2, lines 33-36, column 3, lines 30-32 and 58, column 6, lines 21-24, column 8, lines 1-20 and column 13, lines 18-20. Applicants respectfully traverse.

Bohn is directed towards a pointing device having a rotational sensing mechanism. The pointing device 100 is placed on a surface 140 having a texture 144. The pointing device 100

includes first and second navigators 126 and 128, respectfully. Each of the navigators 126 and 128 includes an LED light source 156 which directs light along a light incident path 164 towards the surface 140. Light is then reflected from the surface along a reflected light path 166 and a specular light path 167. The light reflected along the reflected path 166 passes through an aperture 150 in a bottom 113 of the pointing device 100. The light on the reflected path 166 passes through a lens 154 and contacts surface photodiodes 159 in a first photosensor device 158, wherein it is converted into data and analyzed by a processor to determine movement of the pointing device 100. (See Abstract, column 1, lines 15-21, column 2, lines 33-36, column 3, lines 30-32 and 58, column 6, lines 21-24, column 8, lines 1-20 and column 13, lines 18-20 and FIGS. 1-5).

Meanwhile, the light on the specular light path 167 passes through the aperture 150 and into the chassis of the pointing device until it contacts a lens 108-110 formed along the exterior of the pointing device 100. The lens 108-110 is then illuminated for a user to see.

In one embodiment, the second navigator 128 includes similar components as the first navigator 126 described above. (See FIGS. 2-4). In an alternative embodiment, the dual photosensor structure is replaced by a series of reflectors 350 and 352 to direct reflected light along paths 330 and 332 to a single photosensor array 310. (See FIG. 5).

Bohn does not disclose: **a *single* light source, and an incident light generator configured to receive a light from the *single* light source and to generate at least two groups of incident lights having different incident angles with respect to the surface of the object** as claimed in amended independent claim 1, and similarly claimed in amended independent claim 4, of the present invention.

The Examiner points to column 8, lines 1-32 of the specification of Bohn to teach the above limitation. As described above, there is no element between the LED light source 156 and the surface 140 which could receive the light from the LED 156 and generate at least two groups of incident lights having different incident angles with respect to the surface of the object. Instead, light from the LED 156 is **directly** output to the surface 140. Therefore, there is no incident light generator disclosed in Bohn.

Furthermore, the present invention as claimed discloses that **lights from a *single* light source (61) are incident to an incident light generator (59), and lights reflected from the**

incident light generator (59) are illuminated to a surface of an object (5) in the present invention. In contrast, Bohn discloses that lights from LED (156) are illuminated to image areas (168, 169), and lights reflected from the image areas (168, 169) are focused onto a photosensor (158) through a lens (154) (corresponding to the incident light generator of the present invention). Thus, the light path of the present invention and the light path disclosed in Bohn are different from each other.

Thus, claims 1 and 4 are believed to be patentably distinct and not anticipated by Bohn. Claim 3 depends directly from claim 1, and thus includes all of the limitations of claim 1. Claims 5 and 8 depend directly from claim 4, and thus include all of the limitations of claim 4. It is thus believed that the dependent claims are allowable for at least the reasons given for independent claims 1 and 4, which are believed to be allowable.

Accordingly, Applicants respectfully request reconsideration and allowance of claims 1, 3-5 and 8.

### **Rejections Under 35 U.S.C. § 103**

In order for an obviousness rejection to be proper, the Examiner must meet the burden of establishing that all of the elements of the invention are disclosed in the prior art, and that the proposed modification of the prior art must have had a reasonable expectation of success, determined from the vantage point of the skilled artisan at the time the invention was made. See MPEP 2143.

#### **Claims 2, 6, 7 and 9**

Claims 2, 6, 7 and 9 stand rejected under 35 U.S.C. §103(a) as being allegedly unpatentable over Bohn in view of He (U.S. Patent No. 6,540,356, hereinafter "He"). The Examiner states that Bohn discloses all of the elements of the abovementioned claims except, *a third reflecting plate reflecting the lights of the light source to generate a third group of incident lights having a third incident angle greater than the second incident angle with respect to the surface of the object*, which the Examiner further states is disclosed primarily in column 3, lines 5-30 and column 6, lines 12-16 of He. Applicants respectfully traverse.

As mentioned above for independent claims 1 and 4, Bohn does not disclose: **a *single* light source, and an incident light generator configured to receive a light from the *single* light source and to generate at least two groups of incident lights having different incident angles with respect to the surface of the object** as claimed in amended independent claim 1, and similarly claimed in amended independent claim 4, of the present invention.

He is directed towards an instrument and a method for measuring aberration of human eyes. The instrument includes and LED driving circuit 1, an LED array 2, a first lens 3, a reflector 4, a second reflector 8 and a third reflector 11. (See Abstract, FIG. 1 and column 4, line 65 through column 5, line 11).

Applicants first traverse the rejection on the grounds that Bohn and He are non-analogous art. For the purposes of evaluating obviousness of claimed subject matter, the particular references relied upon must constitute “analogous art”. *In re Clay*, 966 F.2d 656, 659, 23 U.S.P.Q.2d 1058, 1060-61 (Fed. Cir. 1992). The art must be from the same field of endeavor, or be reasonably pertinent to the particular problem with which the inventor is involved. *Id.* However, He is directed to a completely different field of endeavor than the pointing device of Bohn, namely, He is directed towards detecting aberrations in human eyes. One of ordinary skill in the art would not look to the field of human eye aberration detection to modify the teachings of Bohn.

Secondly, He fails to cure the deficiencies of Bohn with respect to the independent claims. He does not disclose, teach or suggest: **a *single* light source, and an incident light generator configured to receive a light from the *single* light source and to generate at least two groups of incident lights having different incident angles with respect to the surface of the object** as claimed in amended independent claim 1, and similarly claimed in amended independent claims 4 and 9, of the present invention.

Thus, Applicants submit that neither Bohn nor He, alone or in combination, render obvious the subject matter of independent claims 1, 4 and 9. Claim 2 depends from claim 1, and thus includes the allowable elements of claim 1. Claims 6 and 7 depend from claim 4, and thus include the allowable elements of claim 4. It is thus believed that the dependent claims are patentable over the cited references for at least the reasons given above for independent claims 1 and 4.

Accordingly, it is respectfully submitted that the claimed invention is allowable over the cited references. The Examiner's reconsideration and withdrawal of the rejection of claims 2, 6, 7 and 9, and their subsequent allowance, is respectfully requested.

### **Conclusion**

In view of the foregoing amendments and remarks, it is respectfully submitted that all the claims now pending in the application are in condition for allowance. Early and favorable reconsideration is respectfully requested.

Applicants hereby petition for any necessary extension of time required under 37 C.F.R. 1.136(a) or 1.136(b) which may be required for entry and consideration of the present Reply.

If there are any charges due with respect to this response, please charge them to Deposit Account No. 06-1130 maintained by Applicant's Attorneys.

Respectfully submitted,

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